

First Action Interview Pilot Program Pre-Interview Communication	Application No. 10/549,818	Applicant(s) HESKE ET AL.	
	Examiner JEFFREY G. HOEKSTRA	Art Unit 3736	Page 1 of 2

-The MAILING OR NOTIFICATION DATE of this communication appears on the cover sheet with the correspondence address -
 THE SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE **ONE MONTH OR THIRTY (30) DAYS**, WHICHEVER IS LONGER, FROM THE MAILING OR NOTIFICATION DATE OF THIS COMMUNICATION.

This time period for reply is extendable under 37 CFR 1.136(a) for only ONE additional MONTH.
This communication constitutes notice under 37 CFR 1.136(a)(1)(i).

Applicant must, within the time period for reply, file: (1) A letter requesting not to have a first action interview; (2) A reply under 37 CFR 1.111 waiving the first action interview and First Action Interview Office Action; or (3) An Applicant Initiated Interview Request Form (PTOL-413A) electronically via EFS-Web, accompanied by a proposed amendment or arguments, and schedule the interview within 2 months from the filing of the request. A failure to respond to this communication will be treated as a request not to have an interview. If applicant waives the First Action Interview Office Action, the instant Pre-Interview Communication is deemed the first Office Action on the Merits. The next subsequent Office action may be made final if appropriate. See MPEP 706.07(a).

Disposition of Claims

- 3) ☒ Claim(s) 8-18 is/are pending in the application.
 3a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 4) ☐ Claim(s) _____ is/are allowed.
- 5) ☒ Claim(s) 8-18 is/are rejected.
- 6) ☐ Claim(s) _____ is/are objected to.
- 7) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 8) ☒ The specification is objected to by the Examiner.
- 9) ☒ The drawing(s) filed on 20 September 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 10) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 11) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

Contact Information

Examiner's Telephone Number: (571)272-7232
 Examiner's Typical Work Schedule: Monday through Friday 8am to 5pm
 Supervisor's Name: Max Hindenburg
 Supervisor's Telephone Number: (571)272-4726

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>11/14/05, 5/4/07, 9/25/08, & 12/23/09.</u> | 6) <input type="checkbox"/> Other: _____ |

First Action Interview Pilot Program Pre-Interview Communication				Application No. 10549818	Applicant(s) HESKE ET AL.
				Examiner JEFFREY G. HOEKSTRA	Art Unit 3736
Notification of Rejection(s) and/or Objection(s)					
#	Claim(s)	Reference(s) (if applicable)	Rejection Statutory Basis	Brief Explanation of Rejection	
1	8-11 & 16	N	102(b)	Reference N discloses the structure of claims 8-11 and 16 (Figures 13-14d) (paragraphs 83-102). Element 54 appears to comprise two structures which may be the piston and "absorbent element" as broadly as claimed.	
2	12-15, 17 & 18	N,B	103(a)	Building on the rejection of claim 8, N discloses the claimed limitations except for the structure of the absorbent element. Reference B discloses the structure of the absorbent element. (Figures 6A-6C) (column. 11 line 16 - column 13. line 27). It would have	

Expanded Discussion/Commentary		
2		been obvious to combine the biopsy device structures to provide air and liquid filtering and/or blocking for improved pressure management.
		Note - the citations in the rejection correspond to Heske et al. (US 2005/0203439 A1, Reference "N") but the rejection is based upon Heske et al. (DE 202 04 363 U1). Heske et al. (US 2005/0203439 A1) claims Foreign Priority to Heske et al. (DE 202 04 363 U1) and the disclosure of Heske relied upon appears consistent with that of the Foreign Document.
		Note - Specification objected to because the list of parts on page 6 appears incomplete and/or has additional unused numberings
DATE: 3/15/2010		/Jeffrey G Hoekstra/ Examiner, Art Unit 3736